



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2011-0926]

RIN 1625-AA09

Drawbridge Operation Regulation; Lafourche Bayou, LA

AGENCY: Coast Guard, DHS.

ACTION: Final Rule.

SUMMARY: The Coast Guard is changing the regulations governing six bridges across Bayou Lafourche, south of the Gulf Intracoastal Waterway in Lafourche Parish, Louisiana. The Regulations will now begin on August 1 vice August 15 of each year. In addition, one of the six bridges, mile 30.6, is to close 15 minutes earlier than the other bridges. These closures will facilitate the safe, efficient movement of staff, students and other residents within the parish.

DATES: This rule is effective on August 1, 2012.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [USCG-2011-0926], and are available online by going to

<http://www.regulations.gov>, inserting USCG-2011-0926 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Jim Wetherington, D8 Bridge Administration Branch, Coast Guard; telephone 504-671-2128, e-mail james.r.wetherington@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

On April 16, 2012, we published a notice of proposed rulemaking (NPRM) entitled, "Drawbridge Operation Regulation; Lafourche Bayou, LA," in the Federal Register

(77 FR 22520). We received one comment on the proposed rule and it was in favor of the change. We also received a request for an additional change specific to the operating schedule for the SR 308 (South Lafourche (Tarpon)) Vertical Lift Bridge, mile 30.6, at Galliano, Lafourche Parish, LA. The staff, teachers and students of South Lafourche High School requested that the start time for this bridge regulation be 15 minutes earlier, 6:45 a.m. as opposed to 7 a.m., to accommodate the school traffic in this area during school hours. Due to this request for further modification to the drawbridge operations not being included as part of the original NPRM, it was determined that the Coast Guard would reopen the NPRM for additional comments and provide the public information regarding the additional modification request. On June 15, 2012, a notice reopening the comment period for 20 days was published in the Federal Register (77 FR 35897). We received no comments on the modified proposed rule. No public meeting was requested, and none was held.

The Coast Guard is issuing this final rule without a full 30 days before its effective date under the Administrative Procedure Act (APA) (5 U.S.C. 553(d)(3)). This provision authorizes an agency to issue a rule without a full 30 days notice before its effective date when the

agency for good cause finds that procedure "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the Federal Register. A standard 30 day comment period was given for the NPRM. Only one comment was received and it was in support of the change. After the receipt of the additional request the comment period was re-opened for an additional 20 days to allow for further comment. We received no further comments on this action. It would be contrary to the public interest to delay the effective date of this rule by providing a full 30 days notice. The school year starts on or about August 1 and this final rule establishes the operating schedules for the six bridges to coincide with the school year and safety needs for students and school traffic.

B. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 499; 33 C.F.R. 1.05-1; and Department of Homeland Security Delegation No. 170.1 which collectively authorize the Coast Guard to regulate drawbridge operations.

The U. S. Coast Guard, at the request of the Louisiana Department of Transportation and Development (LDOTD), in

conjunction with the Lafourche Parish Council, is modifying the existing operating schedules of six bridges across Bayou Lafourche south of the Gulf Intracoastal Waterway in Lafourche Parish, Louisiana. The six bridges include: Golden Meadow Vertical Lift Bridge, mile 23.9; the Galliano Pontoon Bridge, mile 27.8; the SR 308 (South Lafourche (Tarpon)) Vertical Lift Bridge, mile 30.6; the Cote Blanche Pontoon Bridge, mile 33.9; the Cutoff Vertical Lift Bridge, mile 36.3; and the Larose Pontoon Bridge, mile 39.1. The modification of the existing regulations will allow these bridges to operate on their school year closing schedule from August 1 through May 31. Changes in the scheduled beginning of the school year to before August 15 made the regulation confusing to mariners, the bridge operators and the public. The change in the effective date of this rule will allow for most date changes that are inherent to the school scheduling process and be in the best interest of the public and commercial entities. Additionally, the staff, faculty and student body of South Lafourche High School requested that the SR 308 (South Lafourche (Tarpon)) Vertical Lift Bridge, mile 30.6, from now on called the Tarpon Bridge, close 15 minutes earlier, at 6:45 a.m. as opposed to 7 a.m. The Tarpon Bridge is part of a main route to and from South Lafourche High School. The

school's students, staff, and faculty face a traffic delay and back up with the current schedule allowing marine traffic through until just before 7 a.m. This traffic delay causes a 15-minute back up leading to tardiness of faculty, staff and students. The request to add an additional 15 minutes to the morning closure period will allow for the students and faculty to better transit across the bridge in the morning and will not have a significant effect on the vessels using the waterway.

At all other times, the bridges will open on signal, or in accordance with their published regulation, for the passage of vessels.

C. Discussion of Comments, Changes and the Final Rule

One comment was received with regards to the NPRM from a concerned citizen who stated that the change made sense. Based upon this comment, no changes were made to the proposed regulation. However, due to the additional request to further modify the operation of the Tarpon Bridge, the comment period was reopened. No comments were received in reference to the reopening for comment.

This final rule modifies the starting date of existing bridge regulations from August 15 to August 1 to coincide with local school schedules and increases the daily regulation of the Tarpon Bridge by 15 minutes. The only

changes in the final rule from those in the proposed regulatory text are the addition of the words "unless otherwise indicated" after the regulation times. Under the Tarpon Bridge, subpart (3) in the regulation, the inclusion of specific regulation times has also been made.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

This rule is not a significant regulatory action because it merely modifies the starting date of existing bridge regulations to coincide with local school schedules and increases the daily regulation of the Tarpon Bridge by only 15 minutes.

The changes to these bridge regulations will allow for better vehicle traffic service during peak school hours throughout the year. The new starting date allows for the flexibility needed to accommodate an ever changing school calendar and the new starting time for the Tarpon Bridge allows for the safe and timely arrival of students and staff while still providing vessel traffic a consistent schedule. This rule allows vessels ample opportunity to transit this waterway with proper notification before and after the peak vehicular traffic periods.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the bridges Monday through Friday except Federal holidays during the hours of 7 a.m. to 8:30 a.m., from 2 p.m. to 4 p.m. and from 4:30 p.m. to

5:30 p.m. from August 1 through August 14 and owners or operators of vessels intending to transit the Tarpon Bridge between 6:45 a.m. and 6:59 a.m.

This action will not have a significant economic impact on a substantial number of small entities because the change only adds two weeks to the current regulation and 15 minutes to the current Tarpon Bridge regulation. The current rule has been in effect for these vessels and waterway users since 2006. This change extends the effective period for the known restrictions to coincide with the full school year and allow for the safe and expedient arrival of staff faculty and students as well as other bridge users, which was the original intent of this rule.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of

Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protestors. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That

Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule involves the regulation of drawbridge operations. This rule is categorically excluded, under figure 2-1, paragraph (32) (e), of the Instruction.

Under figure 2-1, paragraph (32) (e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. In § 117.465, paragraphs (a) introductory text and (a)(3) are revised to read as follows:

§ 117.465 Lafourche Bayou.

(a) The draws of the following bridges shall open on signal; except that, from August 1 through May 31, the draw need not open for the passage of vessels Monday through Friday except Federal holidays from 7 a.m. to 8:30 a.m.; from 2 p.m. to 4 p.m. and from 4:30 p.m. to 5:30 p.m., unless otherwise indicated:

* * *

(3) SR 308 (South Lafourche (Tarpon)) Bridge, mile 30.6, at Galliano, need not open for the passage of vessels

from August 1 through May 31, Monday through Friday except
Federal holidays from 6:45 a.m. to 8:30 a.m.; from 2 p.m.
to 4 p.m. and from 4:30 p.m. to 5:30 p.m.

* * * * *

Dated: July 13, 2012

Peter Troedsson

Captain, U.S. Coast Guard

Commander, Eighth Coast Guard District

Acting

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